



AB-807 Bar pilots: pilotage rates: catastrophic event surcharge. (2021-2022)

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AMENDED IN ASSEMBLY MARCH 22, 2021

CALIFORNIA LEGISLATURE— 2021–2022 REGULAR SESSION

ASSEMBLY BILL

NO. 807

Introduced by Assembly Member Grayson

February 16, 2021

~~An act relating to bar pilots.~~ *An act to amend Section 1190 of the Harbors and Navigation Code, relating to bar pilots.*

LEGISLATIVE COUNSEL'S DIGEST

AB 807, as amended, Grayson. Bar pilots: pilotage rates: ~~adjustment.~~ *catastrophic event surcharge.*

Existing law provides for the regulation and licensing of pilots for Monterey Bay and the Bays of San Francisco, San Pablo, and Suisun. Existing law also establishes, in the Transportation Agency, a Board of Pilot Commissioners for the Bays of San Francisco, San Pablo, and Suisun and prescribes the membership, functions, and duties of the board with regard to the licensure and regulation of bar pilots. Existing law prescribes the rates of bar pilotage fees required to be charged by pilots and paid by vessels inward and outward bound through those bays. Existing law authorizes the board to adjust the fees due to catastrophic cost increases, as specified.

This bill would delete the authority of the board to adjust pilotage fees due to catastrophic cost increases and instead would require a surcharge to be imposed per each movement of a vessel using pilot services as is necessary and authorized by the board to recover the costs of the pilot associated with a catastrophic event, as described. The bill would authorize the board to adjust the surcharge as necessary to efficiently administer the recovery of costs, as specified. The bill would authorize a pilot to establish a catastrophic event memorandum account to record the costs of maintaining, restoring, repairing, or replacing the provision of pilotage services to customers due to a catastrophic event. The bill would prescribe procedures and requirements for the billing of the catastrophic event surcharge and the recovery of costs recorded in the catastrophic event memorandum account.

~~Existing law provides for the regulation and licensing of pilots for Monterey Bay and the Bays of San Francisco, San Pablo, and Suisun and for the payment of specified pilotage rates and charges imposed on vessels piloted in those bays. Existing law prescribes the rates of bar pilotage fees required to be charged by pilots and paid by vessels inward and outward bound through those bays and authorizes those rates to be adjusted, as prescribed,~~

~~overall annual cost of providing pilot services:~~

~~This bill would state the intent of the Legislature to enact subsequent legislation relating to the adjustment of bar pilotage rates for Monterey Bay and the Bays of San Francisco, San Pablo, and Suisun due to a catastrophic cost increase to bar pilots:~~

Vote: majority Appropriation: no Fiscal Committee: ~~no~~yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. *Section 1190 of the Harbors and Navigation Code is amended to read:*

1190. (a) Every vessel spoken inward or outward bound shall pay the following rate of bar pilotage through the Golden Gate and into or out of the Bays of San Francisco, San Pablo, and Suisun:

(1) Eight dollars and eleven cents (\$8.11) per draft foot of the vessel's deepest draft and fractions of a foot pro rata, and an additional charge of 73.01 mills per high gross registered ton as changed pursuant to law in effect on December 31, 1999. The mill rates established by this paragraph may be changed as follows:

(A) (i) On and after January 1, 2010, if the number of pilots licensed by the board is 58 or 59 pilots, the mill rate in effect on December 31, 2006, shall be decreased by an incremental amount that is proportionate to one-half of the last audited annual average net income per pilot for each pilot licensed by the board below 60 pilots.

(ii) On and after January 1, 2010, if the number of pilots licensed by the board is fewer than 58 pilots, the mill rate in effect on December 31, 2006, shall be adjusted in accordance with the method described in clause (i) as though there are 58 pilots licensed by the board.

(iii) The incremental mill rate adjustment authorized by this subparagraph shall be calculated using the data reported to the board for the number of gross registered tons handled by pilots licensed under this division during the same 12-month period as the audited annual average net income per pilot. The incremental mill rate adjustment shall become effective at the beginning of the immediately following quarter, commencing January 1, April 1, July 1, or October 1, as directed by the board.

(iv) On and after January 1, 2010, if, during any quarter described in this paragraph, the number of pilots licensed by the board is equal to or greater than 60, clauses (i) to (iii), inclusive, shall become inoperative on the first day of the immediately following quarter.

(B) There shall be an incremental rate of additional mills per high gross registered ton as is necessary and authorized by the board to recover the pilots' costs of obtaining new pilot boats and of funding design and engineering modifications for the purposes of extending the service life of existing pilot boats, excluding costs for repair or maintenance. The incremental mill rate charge authorized by this subparagraph shall be identified as a pilot boat surcharge on the pilots' invoices and separately accounted for in the accounting required by Section 1136. Net proceeds from the sale of existing pilot boats shall be used to reduce the debt on the new pilot boats and any debt associated with the modification of pilot boats under this subparagraph. The board may adjust a pilot boat surcharge to reflect any associated operational savings resulting from the modification of pilot boats under this subparagraph, including, but not limited to, reduced repair and maintenance expenses.

~~(C) In addition to the incremental rate specified in subparagraph (B), the mill rate established by this subdivision may be adjusted at the direction of the board if, after a hearing conducted pursuant to Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code, the board determines that there has been a catastrophic cost increase to the pilots that would result in at least a 2-percent increase in the overall annual cost of providing pilot services:~~

(C) (i) There shall be an additional surcharge imposed per each movement of a vessel using pilot services as is necessary and authorized by the board to recover the costs of the pilot associated with a catastrophic event. The surcharge authorized by this clause shall be identified as a catastrophic event surcharge on the invoice of the pilot and separately accounted for in the accounting pursuant to Section 1136.

(ii) The board shall authorize a pilot to establish a catastrophic event memorandum account and to record in that account the costs of maintaining, restoring, repairing, or replacing the provision of pilotage services to customers

(iii) Clause (i) only applies if the board identifies that the costs recorded in a catastrophic event memorandum account are attributable to a specifically identifiable catastrophic event. Catastrophic events include, but are not limited to, fire, earthquake, terrorism, act of war, or epidemic, if the event has been declared an emergency or a disaster by a local, state, or federal governmental authority.

(iv) The costs, including capital costs, recorded in a catastrophic event memorandum account shall only be recovered through the catastrophic event surcharge following the submission of an application by an affected pilot, the board finding the reasonableness of the costs identified in a catastrophic event memorandum account, and approval by the board of a definitive and exact amount of costs authorized to recover. The board may adjust the total amount of costs to be recovered to reflect any associated savings to ongoing operations or other pilot capital costs as a result from the expense of pilot costs associated with those identified in a catastrophic event memorandum account.

(v) The board shall hold a proceeding in response to a pilot application to recover costs associated with catastrophic events, including a hearing conducted pursuant to Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code.

(vi) The catastrophic event surcharge shall only be billed on the first day of the fiscal quarter after final approval by the board of an application of an affected pilot, and upon a separate action by the board at a following meeting to set a reasonable time and rate of recovery recommended by the finance committee of the board. The finance committee recommendation shall take into consideration any impact that the catastrophic event may have had on pilot customers and may reduce or extend the terms of the surcharge imposition as appropriate.

(vii) The moneys collected under a catastrophic event surcharge shall be used only to recover the costs approved in the pilot catastrophic event memorandum account in the manner established by the board.

(viii) At the recommendation of the finance committee, the board may adjust the surcharge amount established pursuant to clause (i) as necessary to efficiently administer the recovery of costs of the catastrophic event memorandum account, with adjustments to take effect only on the first day of the fiscal quarter following adjustment of the surcharge.

(ix) Information regarding moneys remitted to an affected pilot and moneys collected from the surcharge pursuant to clause (i), as well as information regarding moneys spent as catastrophic event memorandum account costs shall made available to the board or its finance committee in a regular format upon request by the board or its finance committee. The information shall additionally be made available to the public upon request to the board.

(2) A minimum charge for bar pilotage shall be six hundred sixty-two dollars (\$662) for each vessel piloted.

(3) The vessel's deepest draft shall be the maximum draft attained, on a stillwater basis, at any part of the vessel during the course of such transit inward or outward.

(b) The rate specified in subdivision (a) shall apply only to a pilotage that passes through the Golden Gate to or from the high seas to or from a berth within an area bounded by the Union Pacific Railroad Bridge to the north and Hunter's Point to the south. The rate for pilotage to or from the high seas to or from a point past the Union Pacific Railroad Bridge or Hunter's Point shall include a movement fee in addition to the basic bar pilotage rate as specified by the board pursuant to Section 1191.

(c) The rate established in paragraph (1) of subdivision (a) shall be for a trip from the high seas to dock or from the dock to high seas. The rate specified in Section 1191 shall not be charged by pilots for docking and undocking vessels. This subdivision does not apply to the rates charged by inland pilots for their services.

(d) The board shall determine the number of pilots to be licensed based on the 1986 manpower study adopted by the board.

(e) Consistent with the board's May 2002 adoption of rate recommendations, the rates imposed pursuant to paragraph (1) of subdivision (a) that are in effect on December 31, 2002, shall be increased by 4 percent on January 1, 2003; those in effect on December 31, 2003, shall be increased by 4 percent on January 1, 2004; those in effect on December 31, 2004, shall be increased by 3 percent on January 1, 2005; and those in effect on December 31, 2005, shall be increased by 3 percent on January 1, 2006.



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Date	Action
05/12/21	In committee: Set, first hearing. Referred to APPR. suspense file.
04/27/21	From committee: Do pass and re-refer to Com. on APPR. with recommendation: To Consent Calendar. (Ayes 15. Noes 0.) (April 26). Re-referred to Com. on APPR.
03/23/21	Re-referred to Com. on TRANS.
03/22/21	From committee chair, with author's amendments: Amend, and re-refer to Com. on TRANS. Read second time and amended.
03/18/21	Referred to Com. on TRANS.
02/17/21	From printer. May be heard in committee March 19.
02/16/21	Read first time. To print.

Date of Hearing: May 12, 2021

ASSEMBLY COMMITTEE ON APPROPRIATIONS

Lorena Gonzalez, Chair

AB 807 (Grayson) – As Amended March 22, 2021

Policy Committee: Transportation

Vote: 15 - 0

Urgency: No

State Mandated Local Program: No

Reimbursable: No

SUMMARY:

This bill makes various changes to the Board of Pilot Commissioners' (the Board's) catastrophic cost recovery process.

Specifically, this bill:

- 1) Removes the Board's authority to adjust the pilotage fees for catastrophic cost increases.
- 2) Requires a surcharge be imposed per each movement of a vessel using pilot services, as is necessary and authorized by the board to recover the costs of the pilot associated with a catastrophic event.
- 3) Requires the authorized surcharge to be identified as a catastrophic event surcharge on the invoice of the pilot and to be separately accounted.
- 4) Authorizes a pilot to establish a catastrophic event memorandum account and to record in that account the costs of maintaining, restoring, repairing or replacing the provision of pilotage services to customers due to a catastrophic event.
- 5) Conditions the application of the surcharge only if the Board identifies that the costs are attributable to a specific, identifiable catastrophic event for which a state of emergency or disaster has been declared.
- 6) Requires the Board to hold a proceeding in response to a pilot application to recover costs associated with catastrophic events.

FISCAL EFFECT:

- 1) Minor costs to the Board to establish and authorize the surcharge required by this bill.
- 2) Revenue of an unknown amount, resulting from the surcharge this bill requires.

Because this bill requires the imposition of a new surcharge, and dedicates the revenue generated by the surcharge to specific purposes, this bill qualifies for placement on the committee's suspense file.

COMMENTS:

Background and Purpose. Bar pilots and inland pilots are responsible for steering an arriving vessel through the Golden Gate Bridge of San Francisco Bay, the bay waters, and adjoining navigable waters, which include San Pablo Bay, Monterey Bay, Suisun Bay, the Sacramento and San Joaquin Rivers, and its tributaries. For example, for vessels intending to pass through the Golden Gate, as the a vessel approaches the "SF" buoy 12 miles west of the Golden Gate Bridge, a bar pilot boards the ship and takes navigational control, guiding the ship to berth.

This bill authorizes the bar pilots' "ratepayers"—the shipping industry—to establish catastrophic cost recovery accounts, and provides for funding those accounts, to better allow for recovery of costs from a catastrophic event, such as a maritime oil spill. The bill is modeled on use of catastrophic cost recovery accounts by California energy utilities regulated by the California Public Utilities Commission. The bill is supported by both industry and the San Francisco Bar Pilots. According to the author:

In the wake of the COVID-19 pandemic, it became apparent that the current statute within the Harbors and Navigation code regarding the ability of the Board to adjust rates in the midst of a catastrophic event lacked clarity and accountability. By contrast, CPUC maintains a successful and effective framework for evaluating claims for adjustments to rates for regulated businesses in the event of a declared emergency or disaster.

This bill would authorize the Board to approve a temporary surcharge in order to recover the pilots' costs associated with catastrophic events and utilize and adopt the CPUC system of Catastrophic Event Memorandum Accounts. This will create an effective and streamlined way to recover costs incurred by natural disasters or emergencies, such as COVID-19. By also establishing catastrophic event memorandum accounts, pilots are able to record costs incurred resulting from catastrophic events and apply to the Board to recover those costs in a transparent and easy to understand process.

Analysis Prepared by: Jay Dickenson / APPR. / (916) 319-2081